



## FEDERAL COURT OF ACCOUNTS

GROUP I - CLASS VII - PLENARY SESSION

TC 005.038/2016-2

Nature: Administrative.

Unit: Federal Court of Accounts

Interested party: Federal Court of Accounts

Legal representation: none

SUMMARY: ADMINISTRATIVE. PROJECT OF RESOLUTION. ACCESSIBILITY POLICY OF THE FEDERAL COURT OF ACCOUNTS. AMENDMENT TO RESOLUTION 266/2014. APPROVAL.

### REPORT

It is a project of resolution prepared by the Accessibility Commission of the Federal Court of Accounts (Caces) which it intends to regulate the Accessibility Policy of this Court in accordance with Law 13146/2015.

2. The project is result of the joint efforts of Caces and the Cabinet of the Prosecutor of the Public Prosecution Service with the TCU, Mr. Sergio Ricardo Costa Caribé.

3. The final wording of the project was analyzed and approved by the Coordination-General of the Commission - CCG, which, after its approval, directed it to the Presidency for drawing of the rapporteur.

4. Assigned the rapporteur, I hereby bring the matter to appreciation of this Plenary Session and, for better understanding of the subject, I hereby transcribe part of the Caces representation that justifies the necessity of the approval of this rule in this House:

“In the year 2006 the United Nations (UN) promulgated the Convention on the Rights of Persons with Disability, document which was ratified by Brazil along with its Facultative Protocol.

2. The Legislative Decree n. 186/2008, in its article 1, approved the text of the cited Convention pursuant to the terms of paragraph 3 of article 5 of the Federal Constitution, which reinforces its unquestionable importance as instrument of guarantee of dignity of the human person. Therefore, with its promulgation through the Decree n. 6949, of August 25, 2009, this legal document was internalized in the Brazilian legal system as a constitutional rule.

3. In attention to the obligations assumed by force of the Convention, and in order to promote equality of opportunities and elimination of discrimination against people with disability, the State Members undertook to adopt all measures necessary to assure that the group sheltered by the norm has its basic rights guaranteed.

4. The effectiveness of the initiatives in this direction starts with the elimination of the physical barriers and attitude. In this sense appears the necessity of promoting accessibility, which consists in the possibility and good conditions of safely and autonomously reach and use urban spaces, movables, equipment, buildings, transports, information and communication. Including systems and technologies and other services and installations open to public use or private collective use, both in urban zones and in rural zones, for persons with disability or reduced mobility.

5. It is important to mention that, in the country, the social inclusion policy for people with disability exists since the Constitution of 1988, which was initially disciplined by Law n. 7853/1989,

later regulated by the Decree n. 3298/1999. These national legal documents, along with others, with prominence for Laws n. 10048 and 10098, of 2000 and Decree n. 5296, of 2004, known as the accessibility decree, place Brazil in accord with the ideals of the UN Convention.

6. More recently, and in this same sense, Law n. 13146, of July 6, 2015, was passed, instituting the Brazilian Law of Inclusion - LBI (Statute of the Person with Disability), with *vacatio legis* of 180 days. The tone of said law is to strive to ensure the right of people with disability to be included in social life in all its aspects, through basic guarantees of access to be materialized by public policies (with emphasis in education, health, work, urban infrastructure, culture and sport areas for people with disability) and/or initiatives related to the whole society.

7. It is important to point out the roll of provisions that agree with the norm in article 93, which thus provides, *in verbis*:

Article 93. In the performance of inspections and audits by internal and external control agencies, the legislation related to persons with disability, and accessibility norms must be observed.

8. In face of this accessibility regulation, from the validity of the LBI, this becomes a specific and express object of control. Thus, the observation of legislation related to the subject shall be verified by the courts of accounts concerning those under their jurisdiction when performing control actions, as early as January 2016.

9. It is important to point out that this House, even before the issue of the LBI, has been treating this subject as relevant, which is evidenced, for example, by the insertion of verification of requirements contained in the legislation pertinent to accessibility in its audits since the year 2011. Further by way of example, in 2012 an ample operational audit was carried out with the purpose of evaluating the accessibility conditions of people with disability or reduced mobility of installations and services of agencies and entities of the Federal Public Administration, work which is under monitoring phase.

10. Naturally, the Court of Accounts is also submitted to the fulfillment of the alluded regulations. To verify the efficiency and effectiveness of its actions in this realm, the Court, by 2014, created its Accessibility Commission through the Resolution n. 266, of December 30, 2014, which thus provisions:

Article 3. The Court Secretariat counts with the following structure:

(...)

V - collegiate agencies of the Court Secretariat:

(...)

c) TCU Accessibility Commission (Caces);

(...)

Article 89. Caces is a collegiate agency of permanent character and has the purpose of formulating and monitoring the Accessibility Policy of the TCU, as well as guiding and monitoring actions of the units of the Court Secretariat which aim at the implementation of policies in the administrative and external control areas.

Paragraph 1. The TCU Accessibility Policy shall be presided by a judge, a substitute judge or member of the Public Prosecution Service with the TCU appointed by the President of the Court and operationalized by Caces.

Paragraph 2. Caces is integrated by a public servant allotted in the cabinet of the authority presiding over the TCU Accessibility Policy and by public servants appointed by the Head of the President's Cabinet, Secretary-General of the Presidency, Secretary-General of Administration, Secretary-General of External Control and Secretary of Planning, Governance and Management.

Paragraph 3. The Caces coordinator, appointed by the authority presiding over the TCU Accessibility Policy, shall be vested in the bona fide function by act of the President of the TCU.

Paragraph 4. An act of the President of the Court shall assign the members of Caces.



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11. In 2014, Caces was regulated by the TCU Ordinance n. 216. On that occasion, were established its structure of attribution and composition and supervision.

12. By the TCU Ordinance n. 167, of May 6, 2015, statute that currently governs the Caces, were assigned its members and made adjustments in its regulation.

13. Therefore, once the commission was installed and functioning, in order to provide full fulfillment to the provisions in Resolution n. 266, crowning the initiative of this Court of Accounts in harboring the subject of accessibility within the scope of its attributions, all that remains to be done is the preparation of the Accessibility Policy of the Federal Court of Accounts, which proposal content consists of the Project in question.

### **CONTENT OF THE PROJECT OF RESOLUTION**

14. The Project of Resolution herein presented is structuralized as follows:

15. Heading I – General Provisions, where there are provisions concerning the definition of terms used in the project that are part of the vocabulary pertinent to the matter.

16. Heading II - Principles, Directives and Purposes, where the principles, guidelines and objectives that shall guide and subsidize the TCU Accessibility Policy are defined.

17. Heading III - Miscellaneous, where, among others orders, article 89 of the Resolution n. 266, of 2014 is altered. This change is necessary for the structure improvement of Caces and the coordination and supervision of the TCU Accessibility Policy.”

This is the report.



VOTE

The Presidency of this Court submitted to this Plenary Session the project of resolution prepared by the Accessibility Commission of the Federal Court of Accounts (Caces) to regulate the Accessibility Policy of this Court in accordance with Law 13146/2015.

2. The project is the result of joint studies carried out by that Commission and the Cabinet of the MPTCU Prosecutor Mr. Sergio Ricardo Costa Caribé.

3. Accessibility is a right that guarantees to the person with disability or reduced mobility to live independently and exercise their civic and social participation rights as defined in the mentioned law.

4. That statute, where expressing its concern that public agencies and entities observe said rights, orders control agencies to verify the fulfillment of the legislation concerning people with disability and accessibility rules.

5. By duty, this Court, as public agency, must also submit to the fulfillment of these regulations. An example of this, is that as early as 2014 the cited commission was created in this House by the Resolution 266/2014.

6. Caces, as stated in the Resolution, "is a collegiate agency of permanent character and has the purpose of formulating and monitoring the Accessibility Policy of the TCU, as well as guiding and monitoring actions of the units of the Court Secretariat which aim at the implementation of policies in the administrative and external control areas."

7. In this sense, as stressed out in the representation that gave rise to this project of resolution, being under functioning that Commission, "in order to provide full fulfillment to the provisions in Resolution n. 266, crowning the initiative of this Court of Accounts in harboring the subject of accessibility in the scope of its attributions, all that remains to be done is the preparation of the Accessibility Policy of the Federal Court of Accounts".

8. Additionally, is further proposed a change with respect to the command of the Accessibility Policy, which shall be led by a member of the Public Prosecution Service with the TCU, who shall appoint the Caces coordinator.

9. When accepting, with small adjustments in form, the proposal of the Accessibility Commission that received the support of the Coordination-General of the Commission, I would like to stand out that the term for presentation of amendments elapsed "*in albis*," and I hereby vote favorably for the approval of the project under analysis, in the form of minutes of resolution and decision which I hereby bring to the scrutiny of this collegiate.

TCU, Session Room, on September 21, 2016.

ANA ARRAES  
Rapporteur



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DECISION N. 2430/2016 - TCU – Plenary Session

1. Proceeding: TC 005.038/2016-2.
2. Group I - Class VII - Administrative.
3. Interested party: Federal Court of Accounts.
4. Unit: Federal Court of Accounts.
5. Rapporteur: Judge Ana Arraes.
6. Representative of the Prosecution Service: not attending.
7. Technical Unit: none.
8. Legal representation: none.

9. Decision:

Seen, reported and discussed the project of resolution that intends to regulate the Accessibility Policy of the Federal Court of Accounts, in accordance with Law 13146/2015.

The judges of the Federal Court of Accounts gathered in Plenary Session, due to the reasons mentioned by the rapporteur and based in articles 79, 81 and 169, item V, of the Internal Regulation, hereby AGREE to:

- 9.1. approve the project of resolution attached to this deliberation; and
- 9.2. file these records.

10. Minutes n. 36/2016 – Plenary Session.

11. Date of the Session: 9/21/2016 – Ordinary.

12. Electronic code for localization in the TCU page in the Internet: AC-2430-36/16-P.

13. Quorum specification:

13.1. Attending Judges: Raimundo Carreiro (Presidency), Benjamin Zymler, Augusto Nardes, José Múcio Monteiro, Ana Arraes (Rapporteur), Bruno Dantas and Vital do Rêgo.

13.2. Summoned Substitute Judge: Augusto Sherman Cavalcanti.

13.3. Attending Substitute Judges: Marcos Bemquerer Costa, André Luís de Carvalho and Weder de Oliveira.

(Electronically Signed)  
RAIMUNDO CARREIRO

Vice-president, in exercise of the Presidency

(Electronically Signed)  
ANA ARRAES

Rapporteur

I was present:

(Electronically Signed)  
PAULO SOARES BUGARIN  
Attorney-General



TCU RESOLUTION - N. 283, OF SEPTEMBER 21, 2016

Provisions about the Accessibility Policy of the Federal Court of Accounts and modifies Resolution n. 266, of December 30, 2014.

The FEDERAL COURT OF ACCOUNTS, vested in the attributions conferred by articles 73 and 96 of the Federal Constitution and article 1, item XIV, of Law n. 8443, of July 16, 1992,

Whereas the full and effective participation and inclusion of people with disability in the society is one of the general principles present in the Convention on the Rights of Persons with Disability, approved by the Legislative Decree n. 186, July 9, 2008, and enacted by Decree n. 6949, of August 25, 2009;

Whereas the provisions in the Federal Constitution concerning the responsibility of the Federal, State, and Municipal Government regarding the guarantee and protection of rights of people with disability;

Whereas it is obligation of the Government and society to guarantee the necessary actions for the fulfillment of the constitutional and legal provisions concerning people with disability, dispelled the discrimination and prejudice of any kind as established in Laws n. 7853, October 24, 1989, 8112, of December 11, 1990, 8213, of July 24, 1991, 10048, of November 8, 2000, 10098, of December 19, 2000, and 10436, of April 24, 2002;

Whereas the provisions in article 16 of the Convention on the Rights of Persons with Disability, whereby programs and installations intended to care for people with disability must be effectively monitored by independent authorities;

Whereas the publication of Law n. 13146, of July 6, 2015 (Brazilian Law of Inclusion/Statute of the Person with Disability), which shall enter into force in 180 days from that date, especially the provisions in its article 93;

Whereas the Federal Court of Accounts, where exercising its competency of external control, shall monitor the implementation of public actions of accessibility promotion by the entities and agencies under its jurisdiction, resolves:

HEADING I

GENERAL PROVISIONS

Article 1. The Accessibility Policy of the Federal Court of Accounts (TCU) observes the principles, guidelines and purposes set forth in this Resolution, as well as constitutional, legal and regulatory provisions in force.

Paragraph 1. The general and specific accessibility rules, emanated within the scope of the Court, are considered integrant part of the policy to which this Resolution refers.



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Paragraph 2. The Court policies regarding sustainability, institutional security and people management are integrated and harmonized with the provisions hereof.

Article 2. The following terms are below defined for the purposes of application of the TCU Accessibility Policy:

I – accessibility: possibility and conditions of reach for use, with safety and autonomy, of urban spaces, movables, equipment, buildings, transport, information and communication, including their systems and technologies, as well as other services and installations open to the public, for public or collective private use, both in the urban and rural zones, by persons with disability or reduced mobility;

II – accessible space: the space that may be fully perceived and used by all people, including those with disability and reduced mobility;

III - urban movables: the set of objects existing in public passages and spaces, superposed or added to the elements of urbanization or construction so that their modification or transfer does not provoke substantial alterations in these elements, such as traffic lights, electric lighting poles, signaling poles and similar, telephones and phone booths, public fountains, trash cans, canopies, marquees, benches, kiosks and any other elements of analogous nature;

IV - people with disability: those people who have long term impediments of physical, mental, intellectual or sensorial nature, which, where interacting with various barriers may limit their full and effective participation in the society in equal conditions with other people;

V - people with reduced mobility: people who have, by any reason, permanent or temporary difficulty of movement, generating an actual reduction of mobility, flexibility, motor coordination or perception, including the elderly, pregnant and nursing women, persons holding toddlers and the obese;

VI - communication: form of interaction between the citizens which encloses, among others options, languages, including the Brazilian Sign Language (Libras), visualization of texts, Braille, signaling system or tactile communication, extended characters, multimedia devices, as well as simple verbal and written language, auditory systems and digitalized means of voice and manners, means and augmentative and alternative formats of communication, including information and communication technologies;

VII - Brazilian Sign Language (Libras): legal means of communication and expression of ideas and facts used by the community of deaf people in Brazil, with visual-motor nature and its own grammatical structure;

VIII - Braille: conventional alphabet which characters are indicated by points in high relief, where people with visual disability distinguish them by touch;

IX - discrimination for reason of disability: any differentiation, exclusion or restriction based on a disability, with the intention or effect of hindering or precluding the recognition, enjoyment or exercise, on equal opportunities with other people, of all human rights and basic freedoms within the politic, economic, social, cultural, civic scopes or any other scope. It encloses all forms of discrimination, including the refusal of reasonable adaptation;

X - reasonable adaptation: adaptations, modifications and adjustments necessary and adequate to prevent disproportionate and improper liens, where required, in order to assure that the person with disability can enjoy and exercise, in equal conditions and opportunities with other people, all fundamental rights and basic freedoms;

XI - barriers: any impediment, obstacle, attitude or behavior that limits or hinders the social participation of the person, as well as the enjoyment, fruition and exercise of their rights to accessibility,





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freedom of movement and expression, communication, access to information, understanding, safe circulation, among others, and classified as:

- a) urbanistic barriers: the barriers existing in public passages and spaces, and private passages and spaces open to public or collective use;
- b) architectural barriers: barriers existing in public and private buildings;
- c) transport barriers: barriers existing in systems and means of transport;
- d) communication and information barriers: any impediment, obstacle, attitude or behavior that hinders or precludes the expression or receipt of messages and information through communication and information technology systems;
- e) behavioral barriers: attitudes or behaviors that hinder or harm the social participation of persons with disability in equal conditions and opportunities with other people; and
- f) technological barriers: barriers that hinder or preclude access of the person with disability to technologies.

XI - universal design: concept of products, environments, programs and services to be used by all people, without necessity of adaptation or specific project, including assistive technology resources.

### HEADING II

#### PRINCIPLES, DIRECTIVES AND PURPOSES

Article 3. The TCU Accessibility Policy is based on the following principles:

- I – respect for the dignity inherent to people with disability or reduced mobility, for their individual autonomy and independence;
- II – non-discrimination;
- III – full and effective participation of people with disability in the society, especially in activities promoted by the TCU;
- IV - respect for differences and acceptance of the human diversity; and
- V - equality of opportunities.

Article 4. The TCU Accessibility Policy is based on the following directives:

- I - promotion, protection and guarantee of full and equal enjoyment of all human rights and basic freedoms, as well as promotion of respect for the dignity of people with disability or reduced mobility;
- II - promotion of perfecting of accessibility public policies, with emphasis in rights of people with disability or reduced mobility;
- III - identification and elimination of behavioral, architectural and communication barriers that limit access of people with disability or reduced mobility in equal opportunities with other people, to services, movables, internal and external installations of the TCU;
- IV - guarantee to people with disability or reduced mobility of full exercise of the right to participate in debates and decisions regarding actions, projects and work processes concerning them within the TCU;
- V - consideration for the autonomy, independence and security of people with disability or reduced mobility in the preparation and implementation of projects and actions within the Court, in compliance with the current law, best registered practices and Government policies;





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VI - prioritized, specialized and immediate service for people with disability or reduced mobility in the TCU premises and services;

VII - employment of institutional information, education and communication means to promote awareness concerning the capacities and contributions of people with disability or reduced mobility, their rights and life conditions, as well as fighting preconceptions, stereotypes and all forms of discrimination;

VIII - diffusion of the Libras as official means of communication, pursuant to the legislation in force;

IX - establishment of institutional partnerships with entities of the Public Administration and organizations of the civil society for cooperation, exchange of experiences, performance of joint actions in the field of promotion of accessibility, in addition to the diffusion of the Policy object of this Resolution; and

X - adoption of measures directed to the prevention of causes and treatment of effects of disability or reduced mobility acquired due to work activities in the House.

Articote 5. The TCU Accessibility Policy has as purposes:

I - to zeal for the implementation of the legislation concerning the rights of people with disability and reduced mobility, as well as enacted technical regulations and recommendations, activities and projects promoted and implemented by the TCU units;

II - to transversally incorporate the concepts and principles of accessibility in actions, projects, work processes and acquisitions performed in the House, in order to meet internal and the society's demands;

III - to implement continued social inclusion actions for people with disability or reduced mobility, as to allow the full exercise of their civic rights within the Court;

IV - to allow for people with disability or reduced mobility to have access to environments, services and material resources available in the TCU, thus eliminating physical and architectural barriers based on the concept of Universal Design, and prioritizing inclusive and sustainable solutions;

V - to facilitate access to people with disability or reduced mobility to the devices, systems and communication means and information, eliminating technological and communication barriers, promoting the perception, capacity of operation and understanding and the robustness of those means;

VI - to promote qualification actions of public servants and collaborators, so they can learn and adopt new practices and technologies in order to ensure adequate services to people with disability and reduced mobility;

VII - to promote sensitization actions of the functional body, propagating the culture of inclusion in the Court and contributing to eliminate preconception, discrimination and other behavioral barriers;

VIII - to stimulate the participation of public servants and collaborators with and without disability in the planning, execution and evaluation of inclusive actions of the TCU;

IX - to periodically evaluate the performance of inclusive actions implemented in the House, adopting, where necessary, applicable preventive and corrective measures;

X - to establish partnerships with other public and private institutions to promote technical cooperation and the interchange of knowledge and experiences, to propagate and share best practices concerning accessibility, to stimulate and support the implementation of actions related to accessibility and social inclusion of people with disability or reduced mobility;



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XI - to monitor and propose the development of technologies and rules concerning accessibility;

XI - to divulge the actions performed by the TCU to promote accessibility and social inclusion of people with disability or reduced mobility; and

XIII - to zeal for the implementation of the legislation concerning the rights of people with disability and reduced mobility, as well as enacted technical regulations and recommendations, in activities and projects promoted and implemented by the TCU units;

Article 6. The prioritized service of people with disability or reduced mobility within the TCU shall observe the provisions of Law n. 10048, of November 8, 2000, Law n. 10741/03, of October 1, 2003 (Statute of the Elderly), and Decree n. 5296, December 2, 2004.

Sole paragraph. The provisions of the **heading** hereto shall further observe the provisions in Law n. 13146, July 6, 2015, from the beginning of its validity.

### HEADING III

#### STRUCTURE ALTERATION OF THE TCU SECRETARIAT

Article. 7. Article 89 and its paragraphs 1, 2, 3 and 4 of Resolution n. 266, of 2014, are hereby altered and therein included a paragraph 5, which henceforth enters into force with following wording:

“Article 89. Caces is a collegiate agency of permanent character and has the purpose of formulating and monitoring the Accessibility Policy of the TCU, as well as guiding and monitoring actions of the units of the Court Secretariat which aim at the implementation of policies in the administrative, strategic support and external control areas.

Paragraph 1. The Accessibility Policy of the Court shall be supervised by a member of the Public Prosecution Service with the TCU and appointed by Attorney-General.

Paragraph 2. Caces is composed by its coordinator and the public servants appointed by the Judge-President, Internal Affairs Judge, Secretary-General of the Presidency, Secretary-General of Administration, Secretary-General de External Control and Secretary of Planning, Governance and Management.

Paragraph 3. The coordinator of Caces shall be a public servant vested in bona fide function by act of the President of the TCU and shall have capacity in the Secretariat-General of the Presidency.

Paragraph 4. An act of the President of the Court shall establish the regulation and composition of the Caces.

Paragraph 5. It is also competency of Caces to make statements concerning the revision of TCU Accessibility Policy from the proposal presented by the respective Commission coordinator, at least every five years, in order to update the policy regarding new institutional and legal requirements.”

### HEADING IV

#### MISCELANEOUS

Article 8. The TCU Accessibility Policy is aligned with the Court strategies, is composed by institutional initiatives and shall instruct the functioning of the planning and management system, corporative work processes, preparation of budget appropriation proposal and related decisions.



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Article 9. The units of the Court Secretariat shall promote the implementation of the TCU Accessibility Policy through the inclusion of initiatives in the institutional plans, which results shall be monitored by the respective secretary-general of the units in case of plans of operational level, and for other plans, by the departments of governance of the planning and management system established in TCU Resolution n. 269, of March 25, 2015.

Article 10. The President of the Court is hereby authorized to issue all acts necessary to the operationalization of this Resolution and to settle omissions with subsidy on proposals prepared by Caces, and examined, where applicable, by the Coordination-General of the Commission (CCG).

Article 11. This Resolution shall enter into force at the date of its publication.

**RAIMUNDO CARREIRO**  
Vice-president, in exercise of the Presidency